

Supreme Court, U. S.

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IN THE

Supreme Court of the United States

October Term, 1978

No. 78-1720

WORLDWIDE CHURCH OF GOD, INC., *et al.*,

Petitioners,

vs.

THE STATE OF CALIFORNIA,

Respondent.

**Petition for Writ of Certiorari to the Supreme Court
of the State of California.**

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WORLDWIDE CHURCH OF GOD, INC., *et al.*,

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vs.

THE STATE OF CALIFORNIA,

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**Petition for Writ of Certiorari to the Supreme Court
of the State of California.**

PETITIONERS, WORLDWIDE CHURCH OF GOD, INC., a California corporation; AMBASSADOR COLLEGE, INC., a California corporation; AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION, a California corporation; WORLDWIDE ADVERTISING, INC., a California corporation; GATEWAY PUBLISHING, INC., a California corporation; HERBERT W. ARMSTRONG; STANLEY R. RADER; HENRY CORNWALL; RALPH HELGE; and the accounting firm of RADER, CORNWALL and KESSLER, respectfully pray that a Writ of Certiorari issue to review an order of the California Supreme Court filed March 22, 1979, which finally determined Petitioners' right to immediate review of a trial court order of March 12, 1979, imposing a receivership

on the Worldwide Church of God and its affiliated entities, Ambassador College and the Ambassador International Cultural Foundation.

OPINION BELOW.

On March 22, 1979, the California Supreme Court, by the vote of 4-3, denied without opinion an original Application for Writ of Mandate/Prohibition. (The denial of original writ appears as Appendix A.)

JURISDICTION.

The Court's jurisdiction rests on 28 U.S.C. section 1257(3). The judgment of the California Supreme Court is final (see, e.g., *Madruga v. Superior Court*, 346 U.S. 556, 557, n. 1 (1954); *Rescue Army v. Municipal Court*, 331 U.S. 549, 565-568 (1947); *Michigan Central R. Co. v. Mix*, 278 U.S. 492, 494 (1929)).¹

QUESTIONS PRESENTED FOR REVIEW.

Can the State of California, consistent with the Religion Clauses of the First Amendment, disregard the religious character of an established church, and because it is incorporated as a nonprofit corporation under state law, treat it as a charitable or public trust and establish the following relationship with and involvement in church affairs:

1. All church property is deemed owned by the People of the State not the church or its members and is subject to supervision, regulation and control by the State;
2. All church records are public records and are subject to audit and review by the State;

¹See further discussion, infra, pp. 12-16.

3. The State may compel the church at any time to account for all of its income and expenditures so the State may determine if church funds are being used for proper religious purposes;

4. Church officials are public trustees who serve and may be removed and replaced by the State;

5. The State may reorganize church structure from hierarchical to congregational form; and

6. The State may appoint a receiver to take possession of all church property and records and to operate and investigate the church as a means of accomplishing all or any of the foregoing objectives?

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED.

The rights asserted by Petitioners arise under the Religion Clauses of the First Amendment of the United States Constitution as applied to the states by virtue of the Fourteenth Amendment. Respondent purports to ground its authority in part on California Corporations Code section 9505 which appears as Appendix B hereto.

STATEMENT OF THE CASE.

A. The Parties.

The Worldwide Church of God was founded approximately 46 years ago. It is a Christian church based upon fundamental teachings revealed in both the New and Old Testaments of the Bible. It is an hierarchical evangelical religious organization of fundamentalist orientation and is incorporated under the California General Nonprofit Corporation Law.

Herbert W. Armstrong is the founder of the Church, its Pastor General and in Church doctrine is Christ's

Apostle and Ambassador, the spiritual and temporal leader of the Church. Stanley R. Rader is Mr. Armstrong's chosen personal advisor.

Church membership numbers approximately 100,000 persons, about 90% of whom reside outside of California. The Church does not solicit funds from the public. Its members tithe and make other voluntary contributions. Significant support is also received from non-member contributors.

Church funds (last year's budget was approximately \$57,000,000) are spent in furtherance of the Church's work, which includes the following:

1. A full range of Church programs and activities for Church members and families, including regularly scheduled religious programs and convocations, an international program of youth activities, and welfare and support programs for indigent members and families.

2. Spreading the gospel to all nations by (a) publication and distribution of periodicals such as "Quest" magazine, "The Plain Truth," "The Worldwide News," and "The Good News," plus with numerous booklets; (b) extensive television and radio broadcasting; (c) worldwide travels by Mr. Armstrong and his staff to meet with world leaders and speak to millions of people through media broadcasts (Mr. Armstrong has averaged more than 200 travel days per year over the last ten years).

3. Operation of Petitioner Ambassador College, located in Pasadena, California, where approximately 350 students are trained for work in the ministry of the Church.

4. Funding Petitioner Ambassador International Cultural Foundation (which presents concerts, opera,

theater and other cultural activities featuring world renowned artists)² and numerous other religious, charitable, educational and scientific projects including (a) archeological excavations and exhibits in Israel; (b) benefit funds for handicapped children in England and Monaco; (c) clinic for the underprivileged in Cairo; (d) Institute for Political Research and Society for Near Eastern Studies in Tokyo; and many more. The Church's activities have received commendations and awards from more than twenty nations. (See Declaration of Willis J. Bicket, a copy of which appears as Appendix C hereto, filed in support of Application for Immediate Stay, California Supreme Court.)³ Respondent is the State of California.⁴

B. Procedural Summary—Trial Court.

1. On January 2, 1979, the California Attorney General commenced the present action contending that the Church is a charitable trust and, therefore, all Church property is beneficially owned not by the Church or its members but by the People of California, all Church property ultimately rests in the court's cus-

²In recent years performing artists have included Artur Rubinstein, Vladimir Horowitz, Luciano Pavarotti, Beverly Sills, Mstislav Rostropovich, the Philadelphia Orchestra and many other first rank artists.

³The Declaration of Willis J. Bicket substantially summarizes the contents of previous declarations and testimony at trial court hearings by officers and members of the Church, such as: Declarations of Ellis LaRavia and Willis J. Bicket, filed in support of February 21, 1979 Motion to Vacate Receivership; Declarations of Stanley R. Rader and Joseph Kotora filed in support of Application to Dissolve *Ex Parte* Receivership on or about January 10, 1979; R.T. Jan. 10-12, pp. 273-291.

⁴The action was originally commenced by the State on relation of six individuals who have no continuing participation in the proceedings.

tody and is subject to the supervision of the court, all Church records are public records, Church officials are trustees who serve and may be removed at the Court's pleasure, and at "the slightest hint or suspicion of wrongdoing, let alone proof positive or proof by a preponderance, it is the court's duty . . . to see to it there is a worthy trustee installed, that an investigation is made, that the facts are exposed." The Attorney General contends and the Superior Court of the County of Los Angeles (the "trial court") has agreed that the court is "the guardian and this Church is [its] ward." (R.T. Jan. 10-12, pp. 9-12.)⁵

a. Pursuant to this charitable trust theory, the Attorney General alleges misuse of Church funds and seeks *inter alia*, (a) to compel the Church to make a full accounting to the court of all funds received, expended or held by the Church;⁶ (b) to remove most of the present Church leadership and effectively to restructure the Church from an hierarchical to a congregational institution; (c) for appointment of a receiver to take possession of all Church assets, books and records; (d) to enjoin the Church and its leadership from interfering with the actions of the receiver.

b. On the same date, in accordance with the Attorney General's charitable trust theory, the trial court appointed a temporary receiver *ex parte* to take possession of all Church assets, books and records and to

⁵These statements and quotations of the Attorney General's position are from trial court transcripts, pertinent portions of which are quoted in Appendix D hereto.

⁶At a hearing on January 10, the Attorney General claimed the State may determine if Church funds are being used for proper Church purposes and undertook to demonstrate to the court that ". . . the money is not being used for God's work." (R.T. Jan. 10-12, p. 13.)

take legal action to "protect" and recover Church assets.⁷

2. On January 3, 1979, the receiver, the Attorney General and armed deputies appeared unannounced at Church headquarters and (a) proceeded to take control of Church assets, operations and many records which pertained to ecclesiastical matters, (b) commenced removing cartons of Church records without receipting or inventorying them, (c) and took over exclusive control (for several days) of the Church's computer data center. Church employees were threatened with contempt (and physical force); some were peremptorily dismissed. (See R.T. Jan. 5, pp. 20-31; R.T. Jan. 10-12, pp. 217-228.)

3. On January 4, 1979, Petitioners moved to dissolve the temporary receivership raising, *inter alia*, the constitutionality of the State's actions under the Religion Clauses of the First Amendment. The motion was denied on January 5.

4. On January 12, 1979, after hearing, the trial court found no evidence of liquidation of Church properties below value or destruction of Church documents (R.T. Jan. 12, pp. 385-386; R.T. Feb. 21, pp. 135-136) but nevertheless continued the receivership, explaining that "perhaps a trier of fact in the future in this,

⁷The receiver was appointed on the representation to the trial court that the Church leadership was conducting a massive liquidation of Church real property below value and that vital Church records and documents were being shredded. (R.T. Jan. 2, pp. 4, 6-8.) At a subsequent hearing on January 10-12, 1979, the trial court found these allegations were untrue or lacking in evidentiary support. (R.T. Jan. 10-12, pp. 385-386; see R.T. Feb. 21, pp. 135-136.)

The Attorney General relied, in part, on the case of *People v. Christ's Church*, 79 Cal.App.2d 858, 181 P.2d 49 (1947), in which no First Amendment contentions were raised.

when this action is heard, will determine that there is some possibility of truth in these charges, probability of truth." (R.T. Jan. 10-12, p. 385.)⁸

The trial court then entered an oral order, which was reduced to writing by order dated *January 19, 1979*, appointing a receiver *pendente lite* and empowering the receiver to take over all operations and functions of the Church except those deemed by the court to be ecclesiastical in nature.⁹ Among other things, the receiver was authorized (a) to take immediate possession of all Church records, including membership lists, and to make all of these records immediately available to the Attorney General for use in the pending action; (b) to conduct a thorough audit of the business and financial dealings of the Church; (c) to supervise the day-to-day operations of the Church and, if he saw fit, to assume complete control of operations; (d) to suspend or terminate any employees of the Church except Herbert W. Armstrong or Stanley Rader; and (e) the court reserved to itself authority to remove Mr. Armstrong and Mr. Rader from office and to determine which Church affairs were ecclesiastical in nature and which were not.¹⁰

5. On January 15, 1979, the receiver intercepted, and stopped a communication from Mr. Armstrong

⁸The Attorney General argued and the trial court apparently accepted the position that the burden of proof lay with the Church leadership to prove there was no misuse of Church funds. (R.T. Jan. 10-12, pp. 361-362.)

⁹The receiver acknowledged the difficulty if not the impossibility of separating financial matters controlled by the receiver from ecclesiastical matters supposedly left to Mr. Armstrong. (R.T. Jan. 10-12, pp. 95-98.)

¹⁰A copy of the court's written order dated January 19, 1979 is filed herewith as Appendix E.

to the Church membership worldwide, in which Mr. Armstrong criticized the actions of the California Attorney General and courts and urged that contributions be sent to him at his residence in Tucson, Arizona to defend the lawsuit and continue the Church's work. Over the Church's First Amendment objections, the trial court affirmed the receiver's action, and enjoined Petitioners or anyone acting for them from attempting to divert voluntary contributions from being sent to Pasadena, California, where the receiver could take possession of them.¹¹

6. On February 21, 1979, after seven weeks of sustained confrontation and forced cooperation between the Church and the receiver, the trial court, on the Church's motion, agreed to dissolve the receivership. Accordingly, by order of *March 2, 1979*, the trial court dissolved the first receivership and substituted in its stead an injunction which, *inter alia*, authorized the Attorney General "to conduct a thorough audit or other review as may be appropriate" of the financial affairs of the Church and to receive the "full and unqualified cooperation of the Defendants in the conduct of this financial review." Petitioners were required to furnish the Attorney General (a) physical facilities at Petitioners' data center; (b) a computer terminal with direct "on-line access to all portions of their [the Church's] computerized data-base and information retrieval system . . . so that the Attorney General will be in a position to retrieve from the computer quickly any accounting information regarding their affairs that he wishes;" (c) "full access to all computer

¹¹A copy of the trial court's order approving actions of receiver filed January 17, 1979, is filed herewith as Appendix F.

programs, source program listings, operating procedures, record layouts, data-element descriptions, and documentation of the systems in use at their data center, immediately upon the auditor's request;" (d) "any financial records or documents requested by the Attorney General within five working hours or a written explanation for failure to do so;" and (e) "a complete magnetic tape copy of the financial data-base of the defendant nonprofit corporation [the Church] as it was in existence on their computers as of midnight December 31, 1978 . . . in a form convenient for processing on the Attorney General's own computers." The court reserved to itself the decision whether to compel the Church to disclose membership lists.¹²

7. On March 12, 1979, the trial court, at the conclusion of other matters in the case *sua sponte*, without giving notice or hearing evidence, ordered reinstatement of the receivership, appointed a new receiver, and conferred upon him substantially identical powers to those set forth in his order of January 19, 1979. The court set stay bond at \$1,000,000.¹³

¹²By March 2, 1979, attention focused on the Church's computer data center, described by the receiver's chief operating officer as one of the most advanced installations on the West Coast. (R.T. Feb. 21, p. 58). The data-base of this system includes current information in the computer and older information stored on magnetic tapes. The system is used primarily to store information of an ecclesiastical nature, including all mailing lists, such as membership lists, ministry lists, mailing lists for Church publications and communications, donor lists, welfare lists and the like. It also stores records of all income and expenditures for the Church, the College and the Foundation. (See R.T. Jan. 10-12, pp. 291-300.)

¹³Copies of the trial court's minute order of March 12 and formal order of March 16, 1979, are filed herewith as Appendix G.

The only "event" which occurred between March 2 when the trial court dissolved the first receivership and March 12

8. Within several days of the March 12 order reinstating the receivership, 899 Church members residing in California posted individual undertakings totalling in excess of \$3,400,000, thereby staying reimposition of the receivership. The Attorney General has challenged all of these undertakings.

C. Procedural Summary — Appellate Court Proceedings.

1. On January 16, 1979, Petitioners filed a Petition for Writ of Prohibition/Mandate in the Court of Appeal seeking review of the trial court's oral order of January 12, appointing receiver *pendente lite*. On January 25, 1979, the Court of Appeal denied the Petition. On January 29, 1979, Petitioners petitioned the California Supreme Court for a hearing.

2. On March 19, 1979, Petitioners filed an original Petition for Mandate/Prohibition in the California Supreme Court seeking review of the trial court's order of March 12, 1979, reinstating the receivership.

3. On March 22, 1979, the California Supreme Court, by a 4-3 vote, denied the Petition for Hearing and the Petition for Mandate/Prohibition.

when he reinstated the receivership was Petitioners' filing of a notice of appeal from the injunction. Petitioners have also filed notices of appeal from each order appointing receiver. In normal course, it will take two years or more for these appeals to be resolved in the California appellate courts.

**WHY THE FEDERAL CONSTITUTIONAL QUESTIONS
ARE PROPERLY BEFORE THIS COURT.**

**A. The Injury to Petitioners' First Amendment Rights
Has Been Massive, Immediate and Irreparable and
Is Continuing.**

The device of the receivership *pendente lite* was specifically designed to give and in fact gave the State immediate and total control over the property, records and affairs of the Church. Accordingly, the State has obtained most of the relief it sought in the complaint.¹⁴ but without a trial on the merits or any proof of wrongdoing to justify such drastic relief. As a necessary corollary to the receiver's power, the Church (as well as its leaders and members) have suffered impairment and destruction of First Amendment rights just as extensive and final as if a judgment had been entered after trial. The Church has been delivered into bondage before it could establish its rights as a free institution.¹⁵ Further litigation of course will continue the destruction of Petitioners' First Amendment rights so vigorously begun by the first receiver, but it will not raise any new issues under the Religion Clauses of the First Amendment or more clearly delineate existing

¹⁴The State sought an accounting—the first receiver initiated the accounting and the second receiver is directed to complete it; the State wanted Church officials removed—the receiver usurped their functions; the State wanted to determine what are proper religious expenditures—the receiver is empowered to control all expenditures and he or the court will determine whether any expenditure is for a proper purpose.

¹⁵Similarly, Church members were denied the right to intervene on behalf of the Church on the ground that the Church as a nonprofit corporation is a charitable trust subject to the jurisdiction of the State and that members, as mere donors, lack standing to intervene (Ruling of February 20, 1979 on Application for Leave to Intervene).

issues. The impact of the present proceeding on the First Amendment rights of the Church and its members has been devastating. We note the following for the Court's consideration:

a. The receiver carried off, examined and copied a huge number of Church documents, many of which the Church believes were ecclesiastical and privileged against disclosure. Similarly, the receiver took exclusive possession of the Church's computer system for several days and presumably had free access to lists of Church members, ministers and the like. Rights of privacy once invaded cannot be restored, but new invasions can be prevented.

b. The receivership instantly destroyed the Church's previously outstanding financial reputation, caused immediate cancellation of a four-million-dollar line of credit with various institutions, and reduced the Church to a cash-in-advance purchaser in a manner appropriate to a bankrupt. The receiver also caused a sharp drop in contributions when he telegraphed the Church ministry worldwide forbidding members from making contributions to Mr. Armstrong.¹⁶ The Church's losses since January 3rd are estimated at more than \$5,000,000 and they continue to mount. (See Appendix C.)

These enormous financial losses to the Church have translated into the following human and ecclesiastical losses: Elimination of the Church's national youth program for this year and curtailment of regional youth

¹⁶Considering that 90% of the Church membership reside outside of California, this was an extraordinary exercise of jurisdiction by the receiver and the California court.

programs;¹⁷ elimination of subsidies to approximately 300-500 indigent families and widows to permit them to attend the Church's seven-day Feast of Tabernacles convocation, the high point of the Church's religious calendar; termination of 90 employees including ministers; 40% reduction of newsstand distribution of "Plain Truth"; drastic reduction of the Church's educational programs for the handicapped and alcoholism; drastic reduction of international programs; elimination of new construction and physical improvements at the facilities in Pasadena; and reduction or elimination of employee educational and training programs. (See Appendix C.)

These injuries are real, immediate and irreparable. They directly impair religious activities which are an integral part of the Church's program. They are the inevitable result of the State of California's massive intrusion into Church affairs and infringement of the Church's First Amendment rights.

B. Petitioners Asserted Their First Amendment Rights Immediately, Continually and at Every Level in the State Courts, to No Avail.

From their first opportunity on January 4, 1979, one day after the receiver's strike force descended on the Church headquarters in Pasadena, Petitioners have asserted their constitutional rights under the Religion Clauses of the First Amendment at every opportunity and at every level of the California court system through

¹⁷Mr. Bicket states in his Declaration (Appendix C): "Because the youth of the Church represents the future growth and leadership of the Worldwide Church of God, this reduction and potential loss of young people has caused great concern for the future of the Church."

and including the California Supreme Court.¹⁸ First Amendment issues were squarely raised in the California Supreme Court both (a) on Petition for Hearing following denial of Petition for Writ of Prohibition/Mandate to Court of Appeal to review the order of January 12th imposing receivership and (b) on Petition for Writ of Mandate/Prohibition to the California Supreme Court to review order of March 12th reinstating receivership. The Attorney General responded that there is no First Amendment issue raised. Alternatively, the Attorney General has argued there is as yet no First Amendment issue, which, in light of the pervasive infringement of First Amendment rights which have already occurred, is the same as saying there never will be a First Amendment issue.

Squarely confronted with the constitutionality of a series of trial court orders which placed the Church completely under the control of the court and its receiver and opened Church files for indiscriminate review, the California Supreme Court, by a 4-3 vote, denied relief.

C. The Federal Issue, Impairment of Petitioners' First Amendment Rights, Is Ripe for Review by This Court.

Petitioners are concerned for the vitality and survival of the Church as a viable religious institution. The Church has already suffered great and irreparable injury at the hands of the State; it will continue to suffer

¹⁸These include Motion to Vacate filed on January 4th, the hearing on January 5th, the hearing of January 10-12, the hearing of February 21st, the hearing of March 1st, the hearing of March 12th, Petition for Writ to Court of Appeal on January 16th, Petition for Hearing in the California Supreme Court on January 29th, Petition for Original Writ in the California Supreme Court on March 19th, among others.

incalculable harm so long as this proceeding continues. If the Church is ever to obtain meaningful protection under the First Amendment, it must be now. Resolution of the constitutional questions presented herein will, we believe, result in the termination of the receivership and prompt and final disposition of this action. The federal issues will never be more ripe for review. Accordingly, the federal question is in appropriate posture for consideration by this Court. (*Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 483 (1975) [“[I]f a refusal immediately to review the state-court decision might seriously erode federal policy, the Court has entertained and decided the federal issue, which itself has been finally determined by the state courts for purposes of the state litigation.”]; *Construction Laborers v. Curry*, 371 U.S. 542, 548 (1963) [“What we do have here is a judgment of the [state] court finally and erroneously asserting its jurisdiction to deal with a controversy which is beyond its power. . . .”]; *Republic Gas Co. v. Oklahoma*, 334 U.S. 62, 68 (1948) [the Court has entertained appeals “because the controversy had proceeded to a point where a losing party would be irreparably injured if review were unavailing.”]; *Nebraska Press Assn. v. Stuart*, 423 U.S. 1327, 1329 (1975) (Blackmun, J. in chambers) [“each passing day may constitute a separate and cognizable infringement of the First Amendment”]; and cf. *National Socialist Party v. Skokie*, 432 U.S. 43 (1977); *Abney v. United States*, 431 U.S. 651, 657-660 (1977).)

REASONS FOR GRANTING THE WRIT.

A. The State of California Has Assumed Dominion and Control Over the Worldwide Church of God Under a Theory of Church-State Relationship Which, Unchecked, Will Extinguish All Guarantees of Religious Freedom Under the Free Exercise and Establishment Clauses of the First Amendment.

The State of California expressly and unequivocally asserts that religious organizations incorporated as non-profit corporations are charitable trusts and, therefore, all Church property is subject to supervision by the State, all Church records are subject to review by the State; in sum, churches are wards of the State. Proceeding from these premises, the State claims it may determine if Church resources have been expended for a proper religious purpose within the body of Church doctrine, the State may force Church polity to conform to the State's notion of adequate governance, and the State may assume operation and control of the Church to achieve these ends.

This assertion of total dominion and control by the State of California over the property and affairs of the Worldwide Church of God is not unique. We are aware of at least one other case in which the State has asserted similar broad authority to investigate and control the affairs of a religious organization (*In the Matter of the Investigation of Faith Center, Inc., et al.*, Los Angeles Superior Court No. C254329). We do not know how many other churches have been or are presently being subjected to this massive infringement of their First Amendment rights. We do know that many and perhaps most churches in this state

are small, possessed of limited financial resources, and would have no choice but to succumb to the State's intrusion and claimed right to investigate and control their affairs.

Accordingly, the matter now before the Court is of far wider significance than just the rights of the Worldwide Church of God and its members. Unchecked here, the State of California will be free to proceed (and may be proceeding) against other religious institutions.

What California can do, other states can do, too. If the states may intrude into church affairs in the manner pursued here, the guarantees of the Religion Clauses of the First Amendment are a dead letter.

B. This Court Has Repeatedly Invoked the Religion Clauses of the First Amendment to Strike Down State Interference in Ecclesiastical Affairs Far Less Onerous and Pervasive Than That Involved in the Present Case.

The actions by the State of California in the present case contravene established constitutional principles enunciated by this Court in the following respects:

1. Contrary to the position of the State, a church does not become less than or other than a church simply because it incorporates. A state cannot strip a church of its religious character by calling it a charitable trust. This Court has rejected state or federal action which would subject religious institutions to state control applicable only outside the protective sphere of religion. Most recently, in *N.L.R.B. v. Catholic Bishop of Chicago*, ..., U.S. ..., 59 L.Ed.2d 533 (1979), this Court rejected the National Labor Relations

Board's claim of jurisdiction over "religiously associated" private institutions which otherwise met the Board's jurisdictional requirements. To the Board a school was a school and teachers merely employees regardless of who employed them. This Court refused to let the Religion Clauses of the First Amendment be swept aside by this simplistic characterization, stressing that religious schools involve religious teaching and teachers at such schools fulfill a religious function:

"In recent decisions involving aid to parochial schools we have recognized the critical and unique role of the teacher in fulfilling the mission of a church operated school." (59 L.Ed.2d at 541.)

"The church-teacher relationship in a church-operated school differs from the employment relationship in a public or other non-religious school. We see no escape from conflicts flowing from the Board's exercise of jurisdiction over teachers in church-operated schools and the consequent serious First Amendment questions that would follow." (59 L.Ed.2d at 543.)

2. The State of California cannot constitutionally operate a church. (*Everson v. Board of Education*, 330 U.S. 1, 15 (1947) ["Neither a state nor the Federal Government can set up a church. . . . Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa."].

3. State supervision of church affairs necessitates unconstitutional entanglement with religion. *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971) ["A comprehensive, discriminating, and continuing surveillance . . . will involve excessive and enduring entanglement between state and church."].

4. More specifically, the accounting of church finances results in unconstitutional entanglement even where the church is willing to accept an audit. (*Lemon v. Kurtzman, supra*, 403 U.S. at 621-622 [“In particular the government’s post-audit power to inspect and evaluate a church-related school’s financial records and to determine which expenditures are religious and which are secular creates an intimate and continuing relationship between church and state.”].)

5. The state cannot constitutionally determine whether church funds are properly spent for religious purposes. (*New York v. Cathedral Academy*, 434 U.S. 125, 133 (1977) [“The prospect of church and state litigating in court about what does or does not have religious meaning touches the very core of the constitutional guarantee against religious establishment. . . .”]; Cf. *Presbyterian Church v. Blue Hull Mem. Presb. Church*, 393 U.S. 440, 449-450 (1969) [“. . . First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. . . . [T]he departure-from-doctrine element of the Georgia implied trust theory requires the civil court to determine matters at the very core of a religion—the interpretation of particular church doctrines and the importance of those doctrines to the religion. Plainly, the First Amendment forbids civil courts from playing such a role.”].

6. The state cannot constitutionally dictate the manner of church governance or decide who shall and shall not be a church leader. (*Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952) [Freedom of religion encompasses the power of religious bodies “to decide for themselves, free from state interference,

matters of church government as well as those of faith and doctrine”]; *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 724 (1976) [“[T]he First and Fourteenth Amendments permit hierarchical religious organizations to establish their own rules and regulations for internal discipline and government. . . .”]; *Lemon v. Kurtzman, supra*, 403 U.S. at 625 [“The Constitution decrees that religion must be a private matter for the individual, the family, and the institutions of private choice. . . .”]; Cf., *Md. & Va. Churches v. Sharpsburg Church*, 396 U.S. 367, 369 (1970) (Brennan, J. concurring) [“To permit civil courts to probe deeply enough into the allocation of power within a church so as to decide where religious law places control . . . would violate the First Amendment in much the same manner as civil determination of religious doctrine.” (fn. omitted)].

In short, the actions of the State of California are so far beyond the pale of permissible state involvement/interference with religion that, were it not for the necessity to reinstate meaning to the First Amendment, the case would warrant summary disposition.¹⁹

C. The State of California’s Assertion of Control Over the Affairs of the Church Violates the Rights to Privacy and Freedom of Association of Church Members and Contributors.

The First Amendment comprehends the rights to privacy (*Griswold v. Connecticut*, 381 U.S. 479

¹⁹The dangers to which the State’s conceptualization of the Church as a charitable trust leads are also illustrated in *Latter-Day Saints v. United States*, 136 U.S. 1 (1890) which antedates modern development of constitutional safeguards for freedom of religion. (See *Kedroff v. St. Nicholas Cathedral*, *supra*, 344 U.S. at 119-120 which rejects a New York legislative assertion of the charitable trust theory and distinguishes the 19th century Mormon Church case.)

(1965)), and freedom of association (*N.A.A.C.P. v. Alabama*, 357 U.S. 449 (1958)). Only a compelling state interest may force these rights to yield, and then only to the extent strictly necessary.

In the present case, the State's governing theory is that church records are public records and are always available for inspection by the State without reasons given. The various orders imposing a receivership on the Church endorse this theory. The January 19th order (Appendix E) directing the receiver to take possession of all Church documents and make them available for inspection to the Attorney General, specifically included membership lists. The March 12th order required Court approval before the receiver could disclose membership lists, but even this minimal safeguard was cosmetic in view of the fact that the receiver was given direct access to the Church's computer on which the membership lists were recorded. (See *Stanford v. Texas*, 379 U.S. 476, 485 (1965), where this Court noted the "constitutional impossibility of leaving the protection of [First Amendment] freedoms to the whims" of state officers.)

Even under the State's illegitimate goal—seeking to determine whether church funds have been expended for proper religious purposes—there would be no need for names of church members or contributors. However, because it has not had to do so, the State has offered no compelling (or any) justification for discovery of this information. Any and all First Amendment rights to privacy and freedom of association have been swept aside.

CONCLUSION.

The State of California has caused massive, immediate and irreparable destruction of Petitioners' rights under the Religion Clauses of the First Amendment. Through the device of a receivership *pendente lite*, the State has asserted dominion and control over the affairs of the Church and has thereby directly involved itself in ecclesiastical affairs.

If the State is permitted to proceed with this unprecedented action, we do not know how it will define church doctrine and restrictive church polity. It will hardly matter, though, because by then the Church will have ceased to exist as a free institution in California.

Petitioners respectfully pray that this Petition for Writ of Certiorari be granted.

Respectfully submitted,

ALLAN BROWNE
of
ERVIN, COHEN & JESSUP
WM. MARSHALL MORGAN
of
MORGAN, WENZEL & McNICHOLAS
DAVID M. HARNEY
of
HARNEY & MOORE
ELLIS J. HORVITZ
MARC J. POSTER and
ALAN G. MARTIN
of
HORVITZ, GREINES & POSTER
A Law Corporation

Counsel for Petitioners

APPENDIX A.

**ORDER DENYING ALTERNATIVE WRIT
L.A. NO. 31091**

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA
IN BANK.**

Worldwide Church of God Incorporated, etc., et al., Petitioners, v. The Superior Court of Los Angeles County, Respondent; People ex rel., Timmons, et al., Real Parties in Interest.

Petition for writ of mandamus and/or other relief DENIED. Bird, C.J., Mosk, J., and Richardson, J., are of the opinion that the petition should be granted.

Filed: March 22, 1979.

/s/ Bird
Chief Justice

APPENDIX B.

California Corporations Code Section 9505:

"A nonprofit corporation which holds property subject to any public or charitable trust is subject at all times to examination by the Attorney General, on behalf of the State, to ascertain the condition of its affairs and to what extent, if at all, it may fail to comply with trusts which it has assumed or may depart from the general purposes for which it is formed. In case of any such failure or departure the Attorney General shall institute, in the name of the State, the proceedings necessary to correct the noncompliance or departure."

APPENDIX C.

DECLARATION OF WILLIS J. BICKET

I, WILLIS J. BICKET, hereby declare and state as follows:

I am the Assistant Treasurer of the Worldwide Church of God and Ambassador College (hereinafter collectively referred to as "Church"). The facts stated herein are known by me to be true. If called upon to do so, I could and would testify competently hereto under oath.

I

THE CHURCH

A. *History and Structure*

The Worldwide Church of God was founded by Herbert W. Armstrong some 46 years ago (originally as the Radio Church of God). It is a Christian church based upon fundamental teachings revealed in both the New and Old Testaments of the Bible.

Since its founding, the Church has flourished and grown to the point where it now has approximately 100,000 members worldwide (including baptized members and their dependent children). Of these, only about 10% reside in California. Herbert W. Armstrong has been the Church's spiritual and temporal leader since its very beginning, and in Church theology is the appointed apostle of Jesus Christ on earth, charged with the responsibility of fulfilling the Church's primary mission of spreading His gospel throughout the world.

The Church does not solicit funds from the public. Its members, however, tithe voluntarily and make other voluntary contributions from time to time. The Church also receives significant financial support from an even greater number of nonmembers, generally referred to

as co-workers (whose members are well in excess of 100,000). The Church's national budget last year was approximately \$57,000,000. (It will be significantly lower this year.)

B. *The Church's Work*

Church funds are spent in furtherance of the Church's work, which includes the following:

1. A full range of Church programs and activities for Church members and families, including regularly scheduled religious programs and convocations, an international program of youth activities, and welfare and support programs for indigent members and families.

2. Worldwide travels by Mr. Armstrong and his staff for the purpose of meeting and speaking to millions of people through electronic and print media and otherwise carrying out the Church's primary mission of "spreading the Gospel to all nations." In the last 10 years, for example, Mr. Armstrong has averaged more than 200 travel days per year.

3. Publication and distribution of periodicals such as "Quest" magazine, "The Plain Truth," "The Worldwide News," and "The Good News," together with numerous booklets.

4. Extensive television and radio broadcasting for the purpose of spreading the Gospel.

5. The support and operation of Ambassador College, located at the Church's headquarters complex in Pasadena, which trains approximately 350 students for the work of the ministry of the Church and also educates them in other areas.¹

¹The Church, as a rule, believes in putting its money in the Work rather than investing in monuments and edifices. As a consequence, its congregations usually meet in rented

6. The production and presentation of concerts, opera, theater and other cultural activities (many children's programs are presented free of charge) funded by the Church and conducted through the Ambassador International Cultural Foundation. Performing artists include Artur Rubinstein, Vladimir Horowitz (his first West Coast concert in 30 years), Luciano Pavarotti, Beverly Sills, Mstislav Rostropovich, The Philadelphia Orchestra, and other first rank artists.

7. Numerous other charitable, educational, scientific and religious projects, including (a) Archeological excavations and exhibits in Israel (including sites at the temple mount and Jewish quarter in Jerusalem); (b) benefit funds for handicapped children in England and Monaco; (c) clinic for the under privileged in Cairo; (d) Institute for Political Research and Society for Near Eastern Studies in Tokyo; and (e) Nepal and Thailand mountain tribe education programs, to name only a few.

The Church's worldwide activities have received commendations and awards from heads of state and leaders of governments throughout the world, including the Bahamas, Belgium, Costa Rica, Egypt, Hong Kong, India, Iran, Israel, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Monaco, the Netherlands, the Philippines, South Africa, Spain, Sri Lanka, Tanzania and Thailand.

or leased halls or buildings, a fact which explains, perhaps, its rather low visibility outside of Pasadena. Church headquarters, Ambassador College and Ambassador Auditorium are located on a 50-acre campus in Pasadena. The Church is one of the largest private employers in Pasadena.

II *CHURCH'S FINANCIAL PROGRAM PRIOR TO RECEIVERSHIP*

A. Superior Bank Credit Lines

Prior to the imposition of the receiver by the Superior Court, both the Church and the College enjoyed excellent credit with financial institutions and vendors. The Church's principal bank line of credit agreement provided for loans of up to \$4,300,000, as follows: \$1,000,000 unsecured line of credit for cash flow, interest at prime; \$2,000,000 unsecured construction line of credit, interest at prime plus one-half percent, repayable at \$75,000 per month plus interest; and \$1,300,000 secured motor vehicle fleet line of credit, interest at prime plus three-quarters percent.

B. Favorable Vendor Billing Practices

Radio and television broadcasting constitute a major program of the Church. Annual expenditures for media time exceed \$5,000,000. The general industry practice is to require religious, political, and other special interest groups to prepay all media time, generally 30 days prior to the air date. The Church, however, has enjoyed such excellent relations with radio and television stations that it had been able to secure time with payment due 30 to 60 days after our program was presented. This open credit was a significant source of financing for purposes of regulating cash flow.

C. Additional Credit Lines

In addition to lines of credit, both the Church and the College were previously able to obtain additional financing for the purchase of real and personal property, secured by such property, and for general operating

purposes through the pledge of otherwise unencumbered real and personal property.

D. Balanced Cash Flow

The cash flow of both the Church and the College is seasonal and subject to fluctuation. Because of the significant, predictable fluctuations, borrowings for purposes of balancing cash flow are necessary to fund all operations of the Church. Salaries, debt-service, utilities, Church hall rentals, maintenance, and other major expenses are all fixed and incapable of being significantly deferred. Therefore, any interruption of cash flow impacts most heavily on other Church activities, which unfortunately include the Church's main charitable and educational endeavors.

III

DESTRUCTIVE ACTS OF THE RECEIVER AND THEIR IMPACTS ON THE CHURCH PROGRAM

A. Destruction of the Church's Credit Lines

On January 3, 1979, when the ex parte receivership was placed upon the Church, one of the receiver's first official acts was to notify principal banks of his authority. Because of his order, the bank returned all outstanding checks, stamping them "refer to maker," which is the same notation often used when they are returned for insufficient funds (i.e., bankruptcy). The Church had approximately one million dollars in outstanding checks that were "bounced" by this action of the receiver. The checks were to important creditors, such as radio and television stations that carried the Church's religious programming, as well as to dependent widowed members and/or their families.

The damage to our credit rating was enormous. It was made even worse by our inability to answer vendor inquiries because all accounting personnel were locked out of their offices by the receiver and denied all access to the Accounting and Data Processing facilities until noon, January 9, 1979. The telephones, therefore, went unanswered.

The bank immediately offset cash in our accounts of \$1,349,000 against our outstanding lines of credit, then totally cancelled the credit lines.

B. *Destruction of Orderly Cash Flow*

Not surprisingly, vendors began to demand cash in advance for C.O.D. terms. The largest independent radio station in the New York market, WOR, where we were the first religious programming they accepted, immediately notified us of cash-in-advance terms.

On January 19, 1979, the receiver sent a telegram to the Church's ministry worldwide (evidently from a ministry list he confiscated) forbidding them to make contributions to Mr. Armstrong, who resides in Arizona, and forbidding the Church's leaders from soliciting or diverting contributions to any location except Pasadena. (The text of this telegram is set forth as Exhibit A hereto.)² The resulting confusion caused a drop in expected revenues during the balance of January and February of about \$2,750,000. This, coupled with the total destruction of our credit and the bank's appropriation of \$1,349,000 in our accounts to discharge an existing loan, dried up our cash flow. In addition, the receiver spent approximately \$150,000 of the

Church's funds for his own expenses, and the Church has incurred and will continue to incur enormous legal expenses in resisting the present action.

C. *Sale of Big Sandy Campus*

When the present lawsuit began, we were in escrow to sell the Church's college campus in Big Sandy, Texas, for \$10,600,000 cash. This would have netted the Church about \$10,000,000, which we had arranged to invest at 10%, thereby gaining \$1,000,000 per year in additional operating revenue. At the same time, the sale would have relieved us of a maintenance burden running \$100,000 per month for a campus we were no longer using. The net effect would have improved our cash flow by over \$2,000,000 per year. Instead, although the receiver ultimately approved the sale, the buyer cancelled. We are now trying to revive the sale, but, if we do, it will be on less favorable terms because, among other reasons, some of the buyer's financial sources are reluctant to finance the purchase of a property in receivership. An all-cash sale now appears highly unlikely.

Moreover, even if a sale is consummated, our loss of investment income and continuing cost of maintenance of the campus is running a cumulative deficit or loss of about \$180,000 per month.

Based on what has occurred to date, we project an irretrievable loss this year in excess of \$5,000,000 as a result of this lawsuit, particularly as a result of the receivership.

²This is a remarkable claim of jurisdiction over the Church's worldwide membership (only 10% of the Church's members reside in California).

IV

*ADVERSE EFFECTS OF RECEIVERSHIP
AND LAWSUIT ON CHURCH PROGRAMS*

A. Youth Programs

The Church maintains a nationwide youth program for nearly seventeen thousand young people (ages from 12 to 19)—this includes basketball, volleyball, track and field, cheer leading, music, literature and art. Each year local, regional and national competitions are held to encourage the youth to improve their skills in each of these activities. Youth counselors are church members with special talents and training to direct these activities and to furnish moral teaching in line with the precepts of the Church. Because of the receivership, it was necessary to eliminate the national programs for one year and greatly curtail the regional programs. Local programs have been reduced to those activities that can be funded locally.

Because the youth of the Church represent the future growth and leadership of the Worldwide Church of God, this reduction and potential loss of young people has caused great concern for the future of the Church.

B. Festival Operations

The Church has an annual seven-day convocation called the Feast of Tabernacles in the fall of each year. This is the high point of our religious calendar and is a time where all family members attend a Church convention in twelve selected sites throughout the United States. Because of the receiver, it has been necessary to reduce the travel allocation to indigent families and widows by \$175,000. This will mean that from 300 to 500 families will not be able to attend these important religious events.

C. Terminations

Ninety employees, including ministers, were laid off as part of the budget reductions caused by the imposition of the receiver. The termination of certain key employees has added to our overall difficulties. Some of these people will be impossible to replace at any price.

D. Newsstand Distribution Program

One of our key methods of distributing our international magazine (*Plain Truth*, circulation nearly two million) is via the Newsstand Distribution Program. This program has had to be reduced by 40% for the next year. At the same time, we have been forced to reduce the number of pages in each issue, thus lessening the overall impact and message that each issue can carry.

E. Church Educational Programs for the Handicapped

The Church has an active program for the handicapped (deaf, blind) by which specially trained individuals provide seminars and tape cassette programs for those handicapped individuals. These programs have had to be drastically reduced or eliminated for one year. In addition, our nationally acclaimed program on Alcoholism (booklets, films, and speakers) has also been greatly reduced.

F. International Programs

Over two million dollars is allocated to programs for the international aspects of our Work. These programs provide printed materials (*Plain Truth*, booklets and reprint articles) as well as salaried U.S. ministers (trained at Ambassador College) in over 30 foreign

offices. These programs have been drastically curtailed and in some areas eliminated.

G. Construction

All construction projects have been eliminated and only those projects that are essential to the safety and vital maintenance of our 50-acre Pasadena facilities have been allowed. Building maintenance and grounds maintenance have been drastically reduced. Ambassador College grounds have been awarded a number of certificates of excellent in the past five years. Improvement programs have been put off for one year.

H. Education and Training of Employees

Because of the receiver, it was necessary to eliminate most of our employee educational and seminar training programs. These programs are used to keep the necessary skills of our professional people at a high level. Data Processing, Publishing and Media fields are constantly changing, and it is vital that our technical people keep up with the state of the art. Because these advantages are not offered this year, it may deter new staff members from joining our organization and may influence others to seek employment in other organizations.

V

CONCLUSION

We are trying to restore our normal operations, but with the imposition of the receivership in the current lawsuit, we are experiencing great difficulty.

Because of this lawsuit and particularly the receivership, prospects for future revenues and conventional assistance from financial institutions is bleak at best. Vendors are reluctant to extend the normal credit terms

that they have given us for years. We have been unable to find any bank which will give us credit even though we are able to generously collateralize our loans. Famous artists are reluctant to perform in our performing arts facilities lest they somehow become affected by the current litigation.

As long as this cloud remains over our heads we will continue to suffer irreparable damage. This unfortunate condition will continue until the Church, which thousands of people have worked so hard to build, has either been vindicated or destroyed. We are presently paying a fearful price in pursuit of our vindication.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on this 11th day of April 1979, at Pasadena, California.

/s/ Willis J. Bicket
WILLIS J. BICKET

EXHIBIT A

(The text of telegram of January 19, 1979 is set forth as Exhibit A hereto.)

"Church members Worldwide Church of God are not permitted to make contributions to Herbert Armstrong or his representatives for Church purposes or on behalf of the Church.

"California Court ruled Worldwide Church of God, Church related corporations, Herbert Armstrong, Stanley, other defendants, are prohibited from diverting contributions from Worldwide Church's Headquarters, Pasadena, California to other locations. Defendants are prohibited from soliciting or causing Church contributions to be made payable to anyone or to any location other than the Worldwide Church of God.

Steven S. Weisman
Court Appointed Receiver
Worldwide Church of God"

APPENDIX D.

The following excerpts from the trial court proceedings set forth the Attorney General's and the trial court's theory and understanding of church-state relationship under the First Amendment and the extent of permissible state involvement in church affairs. As indicated, the quoted statements are by Mr. Hillel Chodos, who was initially attorney for the relators, then Special Deputy Attorney General and at all times principal spokesman for the Attorney General; Deputy Attorney General Lawrence Tapper; Retired Judge Steven Weisman, the first receiver; and the trial judges who heard the various motions. Reference is made to the comments of Mr. Browne, counsel for the Church, where necessary to place the response of others in context. Transcript references are in chronological order.

FROM THE JANUARY 2ND *EX PARTE* HEARING FOR APPOINTMENT OF RECEIVER:

Pages 3-4:

MR. H. CHODOS: If I can just make a few observations. First of all, I recognize that any request for an *ex parte* receiver, without notice, has to be viewed against a strong presumption that it is an emergency measure to be used with great caution. I would suggest to you, however, that at least insofar as pertains to the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., that the usual principles are not applicable. All of those corporations are organized and existing under California law, exclusively for charitable, religious and educational purposes. It is our position that a shorthand way of describing the law applicable to

the corporation of that type is that their property always and ultimately rests in the Court's custody, and they are always and ultimately subject to the supervision of the Court on the application of the Attorney General. In effect, there are no private interests. The Court is not taking something away from somebody or interfering with anyone's private rights. In effect, what we are saying is that there are presently trustees who have been allowed to manage the charitable fund on a day-to-day basis. There is reason to believe, as we have shown you, that they have not done their job in a faithful manner. We believe that essentially those trustees serve at the Court's pleasure, and may be replaced with a more trustworthy trustee.

THE COURT: I don't have any quarrel with that up to there, . . .

Page 7:

MR. TAPPER: . . . But the records we are talking about are public records, just as the assets that Hillel, in describing the charitable organizations, are also public assets.

FROM THE JANUARY 5TH HEARING ON MOTION TO VACATE ORDER APPOINTING RECEIVER:

Pages 51-52:

[Question By Mr. Browne To Receiver Weisman]: . . . With regard to those various aspects you have mentioned, radio time, TV time, literature, aren't there programs domestically and abroad the money is used for, culturally and educationally and religiously?

[By Receiver Weisman]: A I have heard that, but that is still hearsay, Mr. Browne. I can't get the records.

Q And you now have the authority then to decide whether or not funds may be spent on any or all of those projects; isn't that true?

A Yes. But that's why I appointed Mr. Cole as my executive officer, because he's going to run the church end. I am just there temporarily, and I wish I weren't, I'll be frank with you. I am there temporarily to marshal the assets to see that no more money is being unnecessarily spent.

Q But at this point in time, you perceive your function as being the ultimate authority in whether funds are spent or not spent; isn't that true?

A Yes. But I take advice from my executive officer.

Q But if there is a disagreement, one man has to stand up and be counted, and you would have the ultimate decision, would you not?

A I think so.

Page 70:

[Receiver Weisman]: A I am not concerned with the spiritual part of the church; it is not my business.

[By Mr. Browne]: Q Well, wouldn't you agree with me, Judge, that in deciding where funds are to be spent on programs of the church, media time, whether to support particular other charities, that that, in effect, is action in the ecclesiastical sense?

A Might be, might not be; I don't know.

MR. H. CHODOS: Objection, Your Honor. . . . I am shocked to hear Mr. Browne suggest that money that is contributed to this church, college and foundation can somehow be diverted to support other kinds of charities. That is against the law. . . .

. . .

THE COURT: This is perhaps a good time to point out, what is the purpose of this church? I have nothing before me in the way of articles or bylaws or anything to tell me what the purpose of this church is. . . .

Page 97:

[MR. CHODOS]: . . . every court that has considered the [First Amendment] issue since the beginning of Anglo-American jurisprudence has rejected the argument on which counsel's presentation is based. Because this court is the perpetual, ultimate, continuing custodian of charitable funds, and that custody and the powers and duties that flow from that custody under the law have nothing to do with the First Amendment.

Now, Mr. Browne, as every one of his predecessors in a similar situation, says, well, the money and the religious matters are intertwined, because if you can't spend the money to do this or that kind of religious activity, you are interfering with the exercise of religion.

Well that's not going to happen here. Judge Weisman has no intention of it happening. Judge Pacht had no intention of it happening when he made this order, and there is nothing in the order to deal with that.

FROM THE HEARING OF JANUARY 10-12TH
RE APPOINTMENT OF RECEIVER PENDENTE
LITE:

Pages 7-8:

MR. CHODOS: Because of the nature of the church, as a charitable trust, the relationship of the court to the church is unique.

Every other party who comes before the court has some claim to its own property, and has some right to resist intervention by the court. But for 700 years, Your Honor, it has been the law in England and

America that charitable funds are public funds. They are perpetually in the custody of the court. The court is the ultimate custodian of all church funds, just as the Attorney General has always been charged with the power and the duty to investigate allegations of misuse or even suspicions of misuse. And the point that I am trying to make, Your Honor, is that the charitable funds is the res or subject matter of this proceeding. It isn't a party in the usual sense. It is in Your Honor's safekeeping. It has no interests to protect against the court. Your Honor has the power and the discretion to safeguard and preserve those assets and the duty to do so. But the church, as a charitable trust, has no interest to protect here. It has no client. It is the court's funds and the court may remove and replace and substitute trustees at its pleasure.

Just as Judge Weisman would have no standing to oppose your decision to remove him, if you were to do it 10 seconds from now, he couldn't hire a lawyer to argue that he should remain in office. So the trustees of that fund have no standing. And the fund itself, Your Honor, has no interest other than to be preserved and to be applied for the charitable uses for which it was created.

Pages 9-11:

[MR. CHODOS]: It is Your Honor's responsibility, as we see it, to do whatever needs to be done to appoint receivers and other agents to do whatever needs to be done to preserve it and protect it, protect the assets and records, and no one has any basis to resist that intervention.

If there is the slightest hint or suspicion—and I submit to you we have raised it by our papers

in ample measure—if there is the slightest hint or suspicion of wrongdoing, let alone proof positive or proof by a preponderance, it is the court's duty, as I understand it, to see to it there is a worthy trustee installed, that an investigation is made, that the facts are exposed.

...

[MR. CHODOS]: Mr. Rader—Mr. Armstrong is the spiritual leader of this church, and he has the faith and devotion of the members.

And I would agree—and the Attorney General will agree—that it's beyond our power or your power to interfere in any way with his ecclesiastical decisions or ecclesiastical supremacy. We have no desire to do that.

But the church funds, Your Honor, do not belong to Mr. Armstrong. They don't belong to Mr. Rader. To the extent they have collected funds through a California charitable corporation, those funds are impressed with the trust over which Your Honor is the supervisor. This court, in the exercise of its equitable powers, is the supervisor.

Page 12:

[MR. CHODOS]: What I'm suggesting is this church doesn't need a lawyer to help this court protect its assets. We are satisfied that on the application of the Attorney General and a proper showing, this court will provide whatever protection the assets of the church need. . . .

. . . It's Your Honor's charge. You are the guardian and this church is your ward.

...

Page 13:

MR. CHODOS: No. I don't think the church has a single interest that needs counsel before Your Honor. In my view, the church ought to welcome, ought to welcome the supervision of the court.

. . . People send in their money, their tithes to do what they believe is God's work. We have shown you, Your Honor, and I believe we will show you today, that the money is not being used for God's work. . . .

Page 26:

MR. CHODOS: That is right. The church doesn't need representation, because the only thing that can happen to it is something good, because that is what we are asking for.

In other words, if we prevail, it is for the benefit of the church.

We are trying to preserve the assets.

THE COURT: So it follows the church doesn't need counsel at this moment.

MR. CHODOS: That is right.

Page 46:

RECEIVER WEISMAN: . . .

Now, under Judge Pacht's order, as I read it, I was granted the normal full rights as a receiver, in other words, to come in and take over and run the thing, and all that, which contemplates in my mind a large staff to come in and run this thing.

Page 94:

MR. BROWNE: . . . But the point is there is no way a receiver or any other person can have any

control over the financial aspects of this church and not impact the spiritual quality.

...

Page 98:

MR. BROWNE: I'm trying to point out that the financial aspect of this church is so interwoven with the fabric. It would seem to me the next point is to ask the Pope how many people he has surrounding him; does he have ten administrative aids or 25.

THE COURT: . . .

If this is construed as a motion to deny the receiver as a matter of . . ., because it involves the church, the motion is d . . .

Page 139:

[MR. CHODOS]: Your Honor, you will need, we are satisfied, a firm, complete and total control of the financial and business affairs through a receiver until such time as those people who are attempting to influence the membership to resist rather than co-operate can be persuaded or somehow made to withdraw their incitement to resist us.

Page 180:

[MR. CHODOS]: You can't run an operation—I intend to show, Your Honor, that since a court order was made last week, there has been nothing but chaos because there has been massive resistance and disobedience on such a continuing basis that to bring it before the Court a week or two weeks or four weeks from now and give notice and have a hearing would be not only an idle act, but an impossible burden for the Court—this Los Angeles Superior Court to carry.

Page 312:

[MR. CHODOS]: But the court, and only the court, has the power and the duty to enforce the charitable trust. and what I am trying to tell you, Your Honor, if you issue an injunction, who do you think is going to prepare the contempt papers and come to court and litigate it if it is not obeyed? Who do you think is going to watch it? Who do you think is going to take depositions? Not me.

Pages 361-363:

[MR. CHODOS]: He [Mr. Browne] started with the premise that we have a heavy burden of proof. And I suggest to Your Honor that that may be true in an ordinary receivership action between private parties, where private interests are at stake, but where charitable trusts are concerned, it is the opposite which is true. Once the slightest showing sufficient even to raise the court's eyebrow has been made before the court to suggest that there may perhaps be improprieties in the administration of a charitable trust, the presumptions all operate the other way, and the trustee has the burden of coming forward and showing that everything has been fair and regular, and that burden, Your Honor, has not been carried and no attempt has been made to carry it.

Counsel tells you that a receivership is the most drastic remedy, and that may be where the court attempts to interfere with private rights. In cases like that, the Fourteenth Amendment and the due process clause of the California Constitution interpose themselves between the court and the private party. But there are no private rights here. This money is public money. This court is the guardian of it today; it was the guardian of it last week; it was the guardian

of it in 1948, and it will continue to be the guardian of this money as long as the charitable trust continues to exist.

And I would suggest to the court that it is no more drastic for the court to replace Mr. Rader as the custodian of this trust with Judge Weisman, than it would be for the court to replace Judge Weisman with someone else. This court has the power to remove and replace trustees of a charitable trust at its pleasure, in order to assure itself that there should never be the slightest question or possibility of dissipation of charitable trust assets.

. . . What I do know is that Mr. Armstrong and Mr. Rader and their henchmen, who are part of the palace guard who have been brought here to court to foist off their claims upon you, are the takers, not the givers.

The givers are the people all across the country who send in their tithes and their double tithes and their offerings, and that, Your Honor, it is not because they have faith in Herbert Armstrong, but because, I presume, they have faith in God, and because they have believed that Herbert Armstrong and the man he has unfortunately chosen to deputize with control of this church are faithful trustees of God's work. . . .

Page 375:

[MR. CHODOS]: What I am saying, the judge—Judge [Receiver] Weisman has to have control over the funds so he can hire people to help him. He has to have control over the premises so he can keep people off if they are getting in his way. And Your Honor has to rely on him and on yourself not to exercise those powers of possession in such a way as to interfere with ecclesiastical functions.

Pages 378-379:

RECEIVER WEISMAN: Now, if I were given a complete staff and could have some kind of independence, that is the only way I would operate.

And if I have to operate under any of the present conditions, I am not going to do it. And I am waiting to find out what kind of an order you will give, because with all due respect to the court, I asked you the other day to protect me. Remember? Well, with all due respect to the court, if an order comes out that I can't live with, I want to tender my resignation. Either I do it right, or I don't do it at all.

THE COURT: Are you saying that there would be a material or not a material difference, assuming that you had all the control that you had.

JUDGE WEISMAN: All the control I would need would be to be able to hire and fire people, including Mr. Rader.

Pages 380-381:

[MR. BROWNE]: Your Honor, with all due respect, the problems inherent in turning an entire church and its financial operation over to a receiver is so repugnant to the First Amendment, I cannot—

THE COURT: We have been all through that, Mr. Browne.

MR. BROWNE: I know that.

THE COURT: There is no point in going into it again. I understand your position clearly.

I don't agree with your position in that regard.

Pages 381-383:

MR. CHODOS: And the point I am trying to make is if the word receiver frightens people, then you ought

to call him what he really is, which is a temporary trustee appointed by the court, until the court can be assured. The only other thing we are asking for is two things in the lawsuit. That an accounting be prepared, and that some procedure be devised for selecting an independent board of trustees, or whatever you call it, who will provide some check and balance on the financial aspect of this enterprise, insofar as it is a financial enterprise.

...
What I'm saying is whoever is out there has to know that they owe their allegiance to God but work for Judge Weisman, whatever you want to call it, they are working for a paycheck.

They work for him, the trucks, the buildings, the telephone, and the bugging system, if there is one, is his, and everything is his, so he can see that it's right.

APPENDIX E.

Order Appointing Receiver Pendente Lite; Injunction Pendente Lite.

Superior Court of the State of California for the County of Los Angeles.

The People of the State of California, *ex rel.* Alvin Earl Timmons, et al. Plaintiff, vs. Worldwide Church of God, Inc., a California Corporation, et al., Defendants. Case No. C 267 607.

Filed: January 19, 1979.

The order to show cause re receiver and injunction pendente lite in the above-entitled cause came on for hearing in Department 3 of the above-entitled Court on January 10, 1979, before the undersigned. Plaintiffs and relators were represented by: Lawrence R. Tapper, Deputy Attorney General; Hillel Chodos; Hugh John Gibson; and Rafael Chodos, Esqq., and defendants were represented by Ervin, Cohen and Jessup and Allan Browne, Esq. After full consideration of the moving and responding papers filed in the matter, and after consideration of additional evidence and argument both oral and documentary presented at the hearing, and after due consideration of all matters presented, the Court makes the following Order:

ORDER

1. *Prior Orders Superseded.* All prior orders regarding the appointment of the receiver, and all prior injunctions and restraining orders, are hereby vacated and dissolved, and superseded by this Order.

2. *Receiver Appointed Pendente Lite.* Steven S. Weisman, a retired Judge of the Superior Court, heretofore appointed *ex parte* as temporary Receiver, is hereby

appointed Receiver pendente lite over all the financial and business affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc. (hereafter referred to collectively, except where the context otherwise indicates, as "the Church"), to carry out the duties which are specified in this Order; and his original Oath and Bond, filed herein on January 2, 1979, shall continue to stand until further order of Court.

3. *Assets and Property.* The Receiver is to take possession and control of the Church, including all of its assets, both real and personal, tangible and intangible, of every kind and description, except as is otherwise provided in this Order.

4. *Church to Continue to Function.* In spite of this order of possession, it is further ordered that all the authorized employees of the Church shall be permitted to continue to carry out their duties and to continue all activities and operations of the Church. The Receiver nevertheless shall have the right and power to supervise and monitor all of the business and financial operations and activities of the Church; however, he shall not interfere therein unless he determines, in the sound exercise of his sole discretion, that such interference is necessary to avoid damage or loss to the Church of any kind. And if he does so determine, then he shall have the right to take over management and control of the Church to whatever extent that he, in the sound exercise of his sole discretion, deems necessary.

5. *Assistants.* The Receiver is empowered to hire, employ and retain lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts

to assist him in the discharge of his duties pursuant to this Order; and he is authorized to pay reasonable compensation to all his assistants out of the funds and assets of the Church, subject to the supervision of this Court as hereafter provided.

6. *Records.* The Receiver is to take immediate possession of all books and records of the Church, no matter where or in whose possession said records may be found. These records are to include without limitation journals, ledgers, bank statements, vouchers, invoices, logs, memoranda, computer-readable data, and membership lists. These books and records shall be made available for the use of the employees of the Church in the carrying out of all their duties. They shall also be made available to the representatives of the plaintiffs in this action, for use in preparing for the trial in this action.

7. *Operations.* The Receiver is to supervise and control all the business and financial operations of the Church, including both ordinary day-to-day operations, and extraordinary operations. And while it is ordered that the Receiver shall not interfere with the normal business and financial operations of the Church unless he deems it, in the sound exercise of his sole discretion, to be necessary so to interfere; to that extent he will have the right, and it is hereby ordered, that the Receiver has the right to take over any portion of the operation of the business and financial affairs of the Church that he deems necessary in order to protect the Church and its assets.

8. *Termination of Employees.* Except as is otherwise provided herein with respect to Messrs. Herbert W. Armstrong and Stanley Rader, the Receiver is hereby authorized to suspend or terminate, as he

in the sound exercise of his sole discretion determines is necessary, any employee, officer, or agent of the Church, (subject to any contractual employment rights the suspended or terminated party may have), and to direct that said employee, officer or agent not be permitted access to any of the grounds or facilities of the Church from and after the date of such termination or suspension.

9. *Messrs. Armstrong and Rader.* Messrs. Armstrong and Rader will be permitted to continue their prior functions as representatives and authorities of the Church unless and until they are, either of them, removed by proper action of the Church pursuant to its By-laws and Articles; or unless they are removed by further order of this Court pursuant to an application on the part of the Receiver. If the Receiver deems it necessary at any time hereafter pending the trial to move the Court to remove either Mr. Armstrong or Mr. Rader or both, the Receiver may file a petition with the Court on notice to the defendants, and the Court will hear the matter and make a determination on that issue. However, subject to their rights under the existing employment contracts which Messrs. Armstrong and Rader have, to the extent that those rights may hereafter be determined by the Court, their compensation for services and their reimbursement for any expenses they may incur in the course of their employment by the Church, shall only be in such amounts as may be determined by the Receiver in his discretion from time to time.

10. *Non-Interference By Receiver in Ecclesiastical Affairs.* It is not the purpose or intention of this Order to allow the Receiver to interfere in any way with the ecclesiastical functions of the Church (as

distinguished from the College or the Foundation); and he shall not do so. This Receivership concerns itself exclusively with the financial and business affairs of the Church. The ecclesiastical affairs of the Church shall continue to be controlled and directed by its duly authorized ecclesiastical authorities. Notwithstanding the authority of the Receiver to terminate or suspend persons from employment pursuant to Paragraph 7 above, such termination or suspension shall in no way affect their membership or standing in the Church.

11. *Disputes as to whether a given matter is ecclesiastical.* In the event of any dispute between the Receiver and the ecclesiastical authorities of the Church (as opposed to the College or the Foundation) over whether or not a particular matter is ecclesiastical, the authorities aforesaid are authorized to employ counsel to apply to this Court for a resolution of said dispute; and said counsel may thereafter apply for reasonable compensation from the Church funds pursuant to Court order.

12. *Accounting of Church Affairs.* The Receiver is authorized and instructed to employ, to the extent necessary, accountants, auditors, and attorneys to conduct a thorough audit of the financial and business dealings of the Church; and to compensate said professional assistants out of the Church treasury, subject to supervision by this Court as hereafter provided. Moreover, the Receiver is to review all allegations of malfeasance and neglect concerning the financial and business affairs of the Church, and to apply to this Court where appropriate for leave to sue on behalf of the Church for suitable relief.

13. *Funds.* It shall not be necessary for the Receiver initially to take possession of, nor to deposit in any

special Receiver's account, the funds of the Church now or hereafter received by the Church; but the Receiver shall supervise the deposits and disbursements of the funds by the Church in accordance with the terms of this Order. The funds of the Church shall continue to be handled by its employees in the same manner and with the same bookkeeping, accounting and disbursement procedures as were in effect at the time of the commencement of the *ex parte* receivership, subject to the supervision of the Receiver. But in any event, the Receiver shall have the right, in the sound exercise of his sole discretion and at any time, to take possession and control of the funds of the Church forthwith by notification to the Court and to the defendants, and to deposit them in a special Receiver's account, if he deems it necessary.

14. *Sale of Big Sandy.* Unless the Receiver files a motion with the Court within ten days after the date of this Order opposing the sale of Big Sandy for good cause, that sale shall go forward as a cash sale for \$10.6 million, all funds payable directly to the Church.

15. *Supervision by the Court of receivership expenses.* The Court hereby approves and ratifies the transfer by the Receiver of \$50,000.00 to a special Receiver's account, and the payment therefrom by him of sums for security guard service, locksmith service, and accountants, and the payment to himself and his attorney of \$1000.00 each on account of fees.

As soon as reasonably practicable, the Receiver shall present a petition to this Court outlining the nature and extent of the expenditures he anticipates have been or will be necessary for the discharge of those of his duties herein which are peculiar to this receiver-

ship, and he shall seek approval or ratification of this Court to incur and pay such expenditures. Pending the presentation and determination of said petition, the Receiver is authorized to incur and pay such expenses as in his discretion are necessary or expedient to the immediate discharge of his duties.

The Receiver shall not be required to seek advance approval of this Court for expenditures associated with the day-to-day operations of the Church.

16. *Attorneys' Fees To Be Approved By the Court.* Pursuant to representations made to this Court by counsel for defendants on January 10, 1979, and on January 16, 1979, this Court hereby approves the payment on January 9, 1979 of \$30,000.00 out of Church funds to Ervin, Cohen and Jessup, and the payment on the same date of \$6,000.00 out of Church funds to Coombs, Gittler and Hauser, for services allegedly rendered by those law firms to certain of the individual and corporate defendants for whom they have appeared of record herein; provided however, that said approval is without prejudice to subsequent review by the Court, upon its own motion or upon the application of an interested party, to review the reasonableness and propriety of said payments, and to direct that all or a portion of said sums be returned to the Church, either by the said law firms, or by one or more of the individual defendants.

The remainder of attorneys' fees received by said firms on January 9, 1979 (ie. the remaining \$20,000.00 paid to Ervin, Cohen and Jessup, and the remaining \$4000.00 paid to Coombs, Gittler and Hauser) are to be repaid to the Receiver forthwith.

Except as provided in the foregoing, no further attorney's fees or legal fees shall be paid out of Church

funds in connection with this litigation except after proper application to and approval by this Court. This prohibition shall extend to payment of attorney's fees to attorneys representing the plaintiff, the relators, the defendants or any of them, or the Receiver.

INJUNCTION

Until a final disposition of this matter is made, the defendants and each of them, and their agents, employees, and all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the Receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the Church; and are further enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the Church or its associated corporations.

DATED: January 19, 1979.

JULIUS M. TITLE
JUDGE OF THE SUPERIOR COURT

APPENDIX F.

Superior Court of the State of California for the County of Los Angeles.

Filed: Jan. 17, 1979.

The People of the State of California, ex rel., Alvin Earl Timmons, et al., Plaintiffs, vs. Worldwide Church of God, Inc., A California Corporation, et al., Defendants. Case No. C 267 607.

Order Approving the Actions of Receiver.

On reading the verified application of JUDGE STEVEN S. WEISMAN, Receiver in this proceeding for an Order approving said Receiver's January 15, 1979 action whereby he stopped and recalled the attempted mailing to approximately sixty-thousand (60,000) members of the Worldwide Church of God of Defendant Herbert W. Armstrong's letter dated January 14, 1979, the Law Offices of Michael J. Clemens, by Michael J. Clemens, Esq., appearing for the Receiver, and the Law Firm of Ervin, Cohen and Jessup, by Allan B. Cooper, Esq., appearing for the Defendants, and the Court having considered the record and files in this matter, the aforesaid Application and the Exhibits attached thereto, and having heard the arguments of counsel and being fully advised in the premises, finds as follows:

1. That those portions of Defendant Herbert W. Armstrong's letter of January 14, 1979 which specifically relate to the members or prospective donors of the Worldwide Church of God making their monetary donations payable to said Defendant Herbert W. Armstrong personally and directing them to mail said donations to said Defendant Herbert W. Armstrong, c/o General Delivery, Tucson, Arizona, are in direct contra-

vention and violation of the intent, spirit and provisions of the pronounced order of this Court orally issued on January 12, 1979, whereby, *inter alia*, the Defendants, and each of them and their agents and employees acting in concert with them, were enjoined and restrained from interfering with or obstructing the Receiver in the discharge of his duties or from withholding from him any of the assets of the Church.

2. That it is admitted by the Defendants that the Church receives at its World Headquarters, Pasadena, California, donations from contributions which amount to approximately seventy million dollars (\$70,000,000.00) each year and that said contributions constitute the major asset of the Church.

3. That said Receiver acted correctly and efficiently in the performance of his duties of protecting and preserving the financial assets of the Church by stopping and recalling the mailing of said letter of Herbert W. Armstrong which called for contributions to be made payable to Herbert W. Armstrong personally and directing them to be mailed to Mr. Herbert W. Armstrong, c/o General Delivery, Tucson, Arizona.

IT IS ORDERED that the application of Receiver is granted and the action of the Receiver, which resulted in the stoppage and the recall of the mailing of Defendant Herbert W. Armstrong's letter of January 14, 1979, is hereby approved and ratified.

IT IS FURTHER ORDERED that in addition and supplementary to the previous order of this Court, and until there has been a final disposition of the matter by trial and a Judgment of the Trial Court, the Defendants, and each of them and all their agents, employees and all persons acting in concert with them, are hereby enjoined and restrained from diverting, or

attempting to divert, the sending of contributions to the Church's World Headquarters in Pasadena, California, and are further restrained and enjoined from soliciting or causing Church contributions to be made payable to anyone other than to the Worldwide Church of God or to be mailed to any location other than to said Worldwide Church of God, either at its World Headquarters in Pasadena, California, or to any of said Church's various branches throughout the world. It is the intent of this Order to ensure that the solicitation of Church contributions and the receipt thereof by the Worldwide Church of God shall continue in the same fiscal manner as existed prior to the ex parte appointment of the Receiver herein.

DATED: January 16, 1979.

/s/ Julius M. Title
JUDGE OF THE SUPERIOR COURT

APPENDIX G.

Superior Court of California, County of Los Angeles
Date: March 12, 1979.

HONORABLE: JULUS M. TITLE, JUDGE.

G. TORRELLAS, Deputy Sheriff.

G. HASSEN, Deputy Clerk.

G. SCAVARDA, Reporter.

The People of the State of California vs. Worldwide Church of God, Inc., et al. C 267 607.

Hillel Chodos & L. Tapper (for Plaintiffs), M. Clemens, R. Nutter and J. Jaenicke (for Receiver), Aulana L. Peters (for Accountants), Arnold D. Larson (for Intervenor), Allan Browne, W. Morgan and E. Horvitz (for defendants).

NATURE OF PROCEEDINGS: Hearing on Final Accounting of Receiver, etc.

Matters come on for hearing. Hillel Chodos' motion for attorney fees and costs is denied without prejudice. The Court declares that it will not take oral testimony on the final accounting of the former Receiver, but will decide the issue on the further written objections, declarations and points and authorities of counsel. All subpoenas issued for today's proceedings are ordered quashed. The former Receiver shall make available to the defendants, for examination in the Receiver's offices, all records, bills, vouchers, etc., including attorney time records. The accounting firm of Peat, Marwick and Mitchell shall also make available to the defendants all of its records on the final accounting. Said examinations by the defendants shall be completed on or before March 16, 1979 and their objections in reference to the final

accounting shall be delivered to the Court on that date. Counsel for the Receiver is directed to file, on or before March 14, 1979, declarations setting forth their theory on the refusal of payment for the services of the security firm, Boyd and Associates. Any reply by Boyd and Associates shall be filed on or before March 16, 1979.

Defendants' motions for leave to sue Receiver Steven Weisman and to increase the amount of his bond are denied. Defendants' motion for undertaking on granting injunction pursuant to CCP 529 is denied. The declaration of Willis J. Bicket is ordered filed.

The Court finds that the taking of the appeal by the defendants from the Court's order of March 2, 1979, is not per se violative of said order, but nevertheless the status quo of the assets and records must be maintained pending appeal. The Court vacates its prior orders re the dissolution of the Receivership and appoints David L. Ray as Receiver on terms and conditions enunciated by the Court in open court this date and as contained in the notes of the official court reporter. Counsel for the Plaintiff is directed to prepare a written order. Said Receiver is directed to file a bond in the amount of \$10,000.00. The Court sets the amount of a bond to stay Receivership pending appeal at \$1,000,000.00. Pursuant to request of Plaintiff, the Court directs that the record reflect that Stanley R. Rader is present in Court this date.

A copy of this minute order is mailed to all counsel this date.

**Order Appointing Receiver Pendente Lite;
Injunction Pendente Lite.**

Superior Court of the State of California for the County of Los Angeles.

The People of the State of California, *ex rel.* Alvin Earl Timmons, et al. Plaintiff, vs. Worldwide Church of God, Inc., a California Corporation, et al., Defendants. Case No. C 267 607.

Filed: March 16, 1979.

After due hearing before the undersigned in Department 48 of the above-entitled Court on March 12, 1979, plaintiffs and relators appearing by Lawrence R. Tapper, Deputy Attorney General; Hillel Chodos; Hugh John Gibson; and Rafael Chodos, Esq. and defendants appearing by Ervin, Cohen and Jessup and Allan Browne, Esq. and defendant, Stanley Rader being present in Court at said time, and after due consideration of all matters presented, the Court makes the following Order:

ORDER

1. Paragraph #1 of the prior Order dated 3-2-79 entered herein dissolving the Receivership in this action is hereby vacated and is superseded by this Order.

2. David L. Ray is hereby appointed the receiver pendente lite over all the financial and business affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc.

3. Those corporations will be hereinafter referred to collectively as "the church", except where the context otherwise requires. The receiver is to carry out the

duties which are specified in this order: Bond is fixed in the sum of \$10,000 for the receiver.

4. The receiver is to take possession and control of the church, including all of its assets, both real and personal, tangible and intangible, of every kind and description, except as is otherwise provided by the court at this time.

5. In spite of this order of possession, it is further ordered that all of the authorized employees of the church shall be permitted to continue to carry out their duties and to continue all activities and operations of the church. The receiver nevertheless has the right and power to supervise and monitor all of the business and financial operations and activities of the church, but he shall not interfere unless he determines, in the sound exercise of his sole discretion that such interference is necessary to avoid damage or loss to the church of any kind.

If he does so determine, then he shall have the right to take over management and control of the church to whatever extent that he, in the sound exercise of his sole discretion deems necessary.

The receiver is empowered to hire and employ and retain lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts to assist him in the discharge of his duties pursuant to this order. He is authorized to pay reasonable compensation to all of his assistants out of the funds and assets of the church, subject to the supervision of this court as will be provided herein.

The receiver is to take immediate possession of all books and records of the church, no matter where

or in whose possession said records may be found. These records are to include, without limitation, journals, ledgers, bank statements, vouchers, invoices, logs, memoranda, and computer-readable data.

These books and records shall be made available for the use of the employees of the church in the carrying out of all their duties. They shall also be made available to the representatives of the plaintiffs in this action for use in preparing for the trial in this action.

The receiver is to supervise and control all the business and financial operations of the church, including both ordinary day-to-day operations, and extraordinary operations. While it is ordered that the receiver shall not interfere with the normal business and financial operations of the church unless he deems it, in the sound exercise of his sole discretion, to be necessary so to interfere. To the extent he determines it necessary, the receiver has the right to take over any portion of the operation of the business and financial affairs of the church that he deems necessary in order to protect the church and its assets or to carry out his duties as receiver.

Except as otherwise provided herein with respect to Messrs. Herbert W. Armstrong and Stanley Rader, the receiver is hereby authorized to suspend or terminate, as he in the sound exercise of his sole discretion determines is necessary, any employee, officer, or agent of the church, subject to any contractual employment rights the suspended or terminated party may have, and to direct that said employee, officer or agent not be permitted access to any of the grounds or facilities of the church from and after the date of such termination or suspension.

Messrs. Armstrong and Rader will be permitted to continue their prior functions as representatives and authorities of the church unless and until they or either of them are removed by proper action of the church pursuant to its by-laws and articles; or unless they are removed by further order of this court pursuant to application on the part of the receiver. If the receiver deems it necessary at any time hereafter pending the trial to move the court to remove either Mr. Armstrong or Mr. Rader or both, the receiver shall file a petition with the court on notice to the defendants. The court will hear the matters and make a determination on that issue. However, subject to their rights under the existing employment contracts which Messrs. Armstrong and Rader have, to the extent that those rights may hereafter be determined by the court, their compensation for services and their reimbursement for any expenses they may incur in the course of their employment by the church, shall only be in such amounts as may be determined by the receiver in his discretion from time to time.

It is not the purpose or intention of this order to allow the receiver to interfere in any way with the ecclesiastical functions of the church, as distinguished from the college or the foundation, and the receiver shall not do so. This receivership will concern itself exclusively with the financial and business affairs of the church. The ecclesiastical affairs of the church shall be continued to be controlled and directed by its duly authorized ecclesiastical authorities. Notwithstanding the authority of the receiver to terminate or suspend persons from employment pursuant to this order, such termination or suspension shall in no way affect their membership or standing in the church.

In the event of any dispute between the receiver and the ecclesiastical authorities of the church, as opposed to the college or the foundation, over whether or not a particular matter is ecclesiastical, the plaintiff or defendants may apply to this court for a resolution of that dispute.

It shall not be necessary for the receiver initially to take possession of, nor to deposit in any special receiver's account, the funds of the church now or hereafter received by the church; but the receiver shall supervise the deposits and disbursements of the funds by the church in accordance with the terms of this order. The funds of the church shall continue to be handled by its employees in the same manner and by the same bookkeeping, accounting and disbursing procedures as were in effect at the time of the commencement of this action, subject to the supervision of the receiver. But in any event, the receiver shall have the right, in the sound exercise of his sole discretion and at any time, to take possession and control of the funds of the church or any portion thereof required to carry out his duties. He shall take such possession if he deems it necessary forthwith on notification to the court and to the defendants and to deposit them for his use in the special receiver's account.

As soon as reasonably practicable, the receiver shall present a petition to this court outlining the nature and extent of expenditures he has expended or which he anticipates will be necessary for the discharge of those of his duties which are peculiar to this receivership, and he shall seek approval or ratification of this court to incur and pay such expenditures. Pending the presentation and determination of said petition, the receiver is authorized to incur and pay such expenses

as in his discretion are necessary or expedient to the immediate discharge of his duties.

The receiver shall not be required to seek advance approval of this court for expenditures associated with the day-to-day operations of the church.

6. No risk or obligation incurred by the receiver shall be the personal risk or obligation of said receiver but shall be the risk or obligation of the receivership estate, unless the Court shall determine hereafter that it would be appropriate to order otherwise.

Until a final disposition of this matter is made, the defendants and each of them, and their agents, employees, or all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the church.

Bond to stay the appointment of the receiver is fixed at \$1 million. This may be paid from church assets without prejudice to the right of the court to assess the cost at a later time against any individual defendants as may be appropriate.

Dated: Mar. 16, 1979.

JULIUS M. TITLE
Judge of the Superior Court.